

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

HOLLI TELFORD, personally and as assignee
of Brenda Burton,

Plaintiff,

vs.

RON A. BRADEEN; BRADEEN REAL
ESTATE; JEFF STORM; JIM BULTSMA;
JIM ASHMORE; SOUTHERN HILLS TITLE
COMPANY; MORNINGSID PROPERTIES,
LLP; HEARTLAND REAL ESTATE;
VERYLIS R. BOYD; WARNER C. BOYD;
ROBERT EVANS, in his capacity as Sheriff of
Fall River County; and DANE RASMUSSEN,

Defendants.

5:17-cv-05042-JLV

**OBJECTION TO PLAINTIFF'S
REQUEST TO TAKE JUDICIAL NOTICE**

COME NOW Defendants, Morningside Properties, LLP, Verylis Boyd, and Warner Boyd (“these Defendants”), by and through their attorneys, and submit this Objection to Plaintiff’s Request to Take Judicial Notice of Forged and Back Dated Deed in this Action, Doc. 47. The court made clear in its January 17, 2018, Order, Doc. 46, that “[a]t this stage, the court has sufficient filings before it for resolution of the pending motions.” Plaintiff’s latest filing is therefore unnecessary and should be rejected. If Plaintiff wished for the allegations contained in Doc. 47 to be considered by the court, such should have been included in Plaintiff’s previously filed motion papers.

Additionally, these Defendants dispute that Plaintiff’s proposed facts to be judicially noticed even have merit. “According to Federal Rule of Evidence 201(b), ‘[a] judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within

the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” *Cravens v. Smith*, 610 F.3d 1019, 1029 (8th Cir. 2010). Plaintiff offers nothing to show that the facts she proposes are beyond reasonable dispute within the meaning of either subpart (1) or (2) above. Instead, Plaintiff makes bald assertions of forgery and fraud. These are not the type of facts that a court is obliged to take judicial notice of. Plaintiff’s Request to Take Judicial Notice, Doc. 47, should be denied.

Dated February 8, 2018.

LYNN, JACKSON, SHULTZ & LEBRUN, P.C.

/s/ Michael L. Luce

Michael L. Luce

110 N. Minnesota Ave., Ste. 400

Sioux Falls, SD 57104

Telephone: (605) 332-5999, ext. 212

Facsimile: (605) 332-4249

E-Mail: mluce@lynnjackson.com

*Attorney for Defendants Morningside Properties,
LLP; Warner Boyd and Verylis Boyd*